

Claimant alleges injury to her left hand on November 9, 1993, and an injury to her neck, upper back, right shoulder and arm on January 24, 1994. Her testimony and related medical records establish that she was involved in an automobile accident on January 21, 1991, in the course of employment for a different employer. In that accident she suffered injuries to her neck, right arm, right hand and right knee. In November 1992 she settled a workers compensation claim arising from the January 21, 1991 automobile accident. She thereafter continued to receive medical treatment for ongoing physical problems. Those problems included what claimant has described as "neck attacks" which render her unable to turn her head without severe pain down into her shoulder and arm. Claimant testified that she experienced another "neck attack", the subject of the present claim, on January 23 or 24, 1994. She related this "neck attack" to her work because when she looked back at her calendar she noted that two (2) days before the "neck attack" she had been changing the literature she uses in her employment. Claimant also alleges injury to her hand in November 1993. She states that the pain began while she was raking leaves at home in October 1993.

The record includes medical reports which do suggest a relationship between work and both the hand and neck injuries. The record also includes a report stating Dr. Poppa's opinion that the injuries were not caused by work-related activities. The Appeals Board finds the report and opinions by Dr. Poppa to be persuasive and more consistent with the history given by the claimant. From review of the record, the Appeals Board finds that the "neck attack" in January 1994 was not materially different from previous neck attacks and was more probably related to her previous injuries, not her work for respondent. The November 1993 hand injury also appears unrelated to work. The Appeals Board, therefore, finds claimant has failed to establish her injuries more probably than not arose out of and in the course of her employment.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order entered by Administrative Law Judge Alvin E. Witwer, dated October 13, 1994, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of February, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: James E. Martin, Overland Park, KS
Jeffrey D. Slattery, Kansas City, MO
Alvin E. Witwer, Administrative Law Judge
George Gomez, Director